

Remarks

This Application has been carefully reviewed in light of the Office Action dated January 14, 2010. Although Applicant believes all claims are allowable without amendment, to advance prosecution Applicant has made clarifying amendments to Claims 1, 8, and 15. At least certain of these amendments are not considered narrowing, and none are considered necessary for patentability. Applicant respectfully requests reconsideration and allowance of all pending claims.

I. The Claims are Allowable over the Proposed *Bruck-Craddock* Combination

The Examiner rejects Claims 1-4, 7-11, 14-18, and 21-27 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,691,165 to Bruck et al (“*Bruck*”) in view of U.S. Patent Application Publication No. 2003/0005039 by Craddock et al. (“*Craddock*”). Applicant respectfully traverses these rejections and discusses independent Claim 1, dependent Claim 2, and independent Claim 25 as examples.

A. Independent Claims 1, 8, and 15 are Allowable

The proposed *Bruck-Craddock* combination fails to disclose, teach, or suggest each limitation recited in independent Claim 1, which Applicant discusses as an example.

For example, the *Bruck-Craddock* combination fails to disclose, teach, or suggest “communicating at least some of the graphical elements for display to a user, the display presenting at least one job space within at least one virtual cluster of nodes, the job space comprising a set of nodes within the at least one virtual cluster of nodes that is dynamically allocated to complete at least one job,” as recited in amended Claim 1. The Examiner relies on *Bruck* as allegedly disclosing these limitations, citing Figure 12 and certain associated text. *See Final Office Action* at 2-3, 9.

Bruck purports to disclose a load balancing server system that functions as a front server layer between a network (such as the Internet) and a back-end server layer having multiple machines functioning as Web file servers, FTP servers, or other application servers. *Bruck*, Abstract. Figure 12 of *Bruck* discloses a representation of a GUI screen for a Remote Management Console screen for running the distributed server cluster from a remote computer. *See Bruck* at 4:48-52, FIG. 12.

In particular, the cited portions of *Bruck* disclose a screen area showing the “status of a single machine in the distributed server cluster,” “four virtual IP addresses for the machine being monitored,” and “the current byte traffic load being handled by the machine.” *See Bruck* at 19:57-60, 20:7-10 and 47-49; *see also Final Office Action* at 2-3. However, merely displaying IP traffic loads for virtual IP addresses of a single machine does not disclose, teach, or suggest a display “communicating at least some of the graphical elements for display to a user, the display presenting at least one job space within at least one virtual cluster of nodes, the job space comprising a set of nodes within the at least one virtual cluster of nodes that is dynamically allocated to complete at least one job,” as recited in amended Claim 1. Furthermore, merely displaying IP traffic loads of a single machine does not disclose, teach, or suggest “communicating at least some of the graphical elements for display to a user, the display presenting at least one job space within at least one virtual cluster of nodes, the job space comprising a set of nodes within the at least one virtual cluster of nodes that is dynamically allocated to complete at least one job,” as recited in amended Claim 1.

In response to these argument (as presented in the Previous Response prior to the present amendments), the Examiner states that *Bruck* “discloses a virtual cluster [Bruck, column 20, lines 7-10] and at least two job spaces [Bruck, column 20, lines 23-40, Bruck shows that the virtual machines can perform load balancing (a job) between each of the machines if one or more machines are added or should fail or be taken off-line, each of the virtual machines can be set to automatically perform load balancing].” *Final Office Action* at 9. It appears the Examiner now alleges that the load balancing of *Bruck* is the claimed at least one job and the machine of *Bruck* is the claimed “at least one job space within at least one virtual cluster of nodes.” However, even assuming for the sake of argument only that these equations are appropriate (which Applicant does not concede), nowhere do the cited portions of *Bruck* disclose, teach, or suggest “communicating at least some of the graphical elements for display to a user, the display presenting at least one job space within at least one virtual cluster of nodes, the job space comprising a set of nodes within the at least one virtual cluster of nodes that is dynamically allocated to complete at least one job,” as recited in amended Claim 1.

It does not appear that the GUI in *Bruck* presents any display of a job space that is consistent with the manner in which Applicant's claim such a display. For example, even assuming for the sake of argument only (and not by way of concession) that load balancing could be equated to the claimed "job," it does not appear that the GUI of *Bruck* presents a "job space," let alone "a job space that is a set of nodes within the at least one virtual cluster of nodes that is dynamically allocated to complete the at least one job," as recited in Claim 1 as amended.

Moreover, Applicant does not admit that the proposed *Bruck-Craddock* combination is possible or that the Examiner has provided an adequate reason for combining or modifying these references in the manner proposed by the Examiner.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of independent Claim 1 and its dependent claims. For at least certain analogous reasons, Applicant respectfully requests reconsideration and allowance of independent Claims 8 and 15 and their dependent claims.

B. Dependent Claims 2, 9, and 16 are Allowable

Claims 2, 9, and 16 depend from independent Claims 1, 8, and 15 shown above to be allowable, and are allowable for at least this reason. In addition, these claims recite further limitations that are not disclosed, taught, or suggested by the proposed *Bruck-Craddock* combination.

Independent Claim 2, which Applicant discusses as an example, recites the following:

The method of Claim 1, wherein the display presents at least two job spaces within the at least one virtual cluster, each job space allocated to respective jobs.

As shown above, the cited portions of *Bruck* do not disclose, teach, or suggest "communicating at least some of the graphical elements for display to a user, the display presenting **at least one job space** within at least one virtual cluster of nodes, the job space comprising a set of nodes within the at least one virtual cluster of nodes that is dynamically

allocated to complete at least one job,” as recited in amended Claim 1. Thus, the cited portions of *Bruck* necessarily fail to disclose, teach, or suggest that “the display presents **at least two job spaces** within the at least one virtual cluster, each job space allocated to respective jobs,” as recited in Claim 2. Even assuming for the sake of argument only that the load management function disclosed in *Bruck* could be equated to the claimed “job” (which, as discussed above, they cannot), the cited portions of *Bruck* still fail to disclose “wherein the **display presents at least two job spaces** within the at least one virtual cluster, **each job space allocated to respective jobs**,” as recited in Claim 2. Accordingly, *Bruck* fails to disclose, teach, or suggest each element of Claim 2. The cited portion of *Craddock* fails to cure this deficiency of *Bruck*.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of dependent Claims 2, 9, and 16 and their dependent claims.

C. Independent Claims 25-27 are Allowable

The proposed *Bruck-Craddock* combination fails to disclose, teach, or suggest each limitation recited in independent Claim 25, which Applicant discusses as an example.

Independent Claim 25 recites “communicating at least some of the graphical elements for display to a user, the display presenting at least one job space within at least one virtual cluster of nodes, the job space dynamically allocated to complete at least one job.” Applicant maintains that, with or without the above-presented amendments, the proposed *Bruck-Craddock* combination fails to disclose, teach, or suggest “communicating at least some of the graphical elements for display to a user, the **display presenting at least one job space** within at least one virtual cluster of nodes, **the job space dynamically allocated to complete at least one job**,” as recited in Claim 25. There does not appear to be any disclosure in *Bruck* of the display of a **job space**, let alone of a job space that is dynamically allocated to complete at least one job, as recited in Claim 25. Independent Claim 25 is allowable for at least this reason.

In addition, the proposed *Bruck-Craddock* combination do not appear to disclose, teach, or suggest at least the following limitations recited in independent Claim 25:

- each node comprising:
 - at least two first processors integrated to a first card and operable to communicate with each other via a direct link between them; and
 - a first switch integrated to the first card, the first processors communicably coupled to the first switch, the first switch operable to communicably couple the first processors to six or more second cards each comprising at least two second processors integrated to the second card and a second switch integrated to the second card operable to communicably couple the second processors to the first card and at least five third cards each comprising at least two third processors integrated to the third card and a third switch integrated to the third card;
- the first processors being operable to communicate with particular second processors on a particular second card via the first switch and the second switch on the particular second card;
- the first processors being operable to communicate with particular third processors on a particular third card via the first switch, a particular second switch on a particular second card between the first card and the particular third card, and the third switch on the particular third card without communicating via either second processor on the particular second card.

The Examiner apparently relies on the cited portions of *Craddock* as allegedly disclosing these limitations. The Examiner cites generally to various portions of *Craddock* as allegedly disclosing these limitations. *See Final Office Action* at 4-5. Should the Examiner maintain the rejection of Claim 25 based (in part) on *Craddock*, Applicant respectfully requests clarification as to which particular elements of *Craddock* the Examiner is attempting to equate to the particular limitations recited in the claim. For example, which particular elements of *Craddock* is the Examiner equating to the “at least two first processors,” the “first card,” “the direct link between” the at least two first processors, “the first switch integrated to the first card,” “the six or more second cards each comprising at least tow second processors integrated to the second card,” “the second switch integrated to the second card,” the “at least five third cards each comprising at least two third processors integrated to the third card,” and the “third switch [of each third card].”¹

¹ The Code of Federal Regulations states that “[w]hen a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.” 37 C.F.R. § 1.104(c)(2) (emphasis added). Applicant respectfully submits that the citation to general portions of *Craddock* does not comport with these standards and does not adequately apprise Applicant of the Examiner’s position, forcing Applicant to speculate as to the Examiner’s position. Applicant submit that *Craddock* is complex; thus, respectfully, 37 C.F.R. § 1.104 requires the Examiner to designate the particular elements of *Craddock* on which the Examiner relies as allegedly anticipating the particular limitations in Applicant’s claims.

Moreover, Applicant does not admit that the proposed *Bruck-Craddock* combination is possible or that the Examiner has provided an adequate reason for combining or modifying these references in the manner proposed by the Examiner.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of independent Claim 25. For at least certain analogous reasons, Applicant respectfully requests reconsideration and allowance of independent Claims 26-27.

II. The Separately-Rejected Dependent Claims are Allowable

The Examiner rejects Claims 5-6, 12-13, and 19-20 under 35 U.S.C. § 103(a) as being unpatentable over *Bruck* and *Craddock*, and further in view of U.S. Patent Publication No. 2003/0154112 to Neiman et al (“*Neiman*”). Applicant traverses the rejections and respectfully requests reconsideration and allowance of these claims.

Claims 5-6, 12-13, and 19-20 depend from independent Claims 1, 8, and 15, respectively, which Applicant has shown above to be allowable over the proposed *Bruck-Craddock* combination. The Examiner does not appear to allege that *Neiman* makes up for the above-discussed deficiencies of *Bruck* and *Craddock*. Accordingly, dependent Claims 5-6, 12-13, and 19-20 are allowable over the proposed *Bruck-Craddock-Neiman* combination at least because they depend on allowable independent claims. Additionally, dependent Claims 5-6, 12-13, and 19-20 recite further patentable distinctions over the proposed *Bruck-Craddock-Neiman* combination. To avoid burdening the record and in view of the clear allowability of independent Claims 1, 8, and 15, Applicant does not discuss these distinctions in this Response. However, Applicant reserves the right to discuss these distinctions in a future Response or on Appeal, if appropriate. Moreover, Applicant does not admit that the proposed *Bruck-Craddock-Neiman* combination is possible or that the Examiner has provided an adequate reason for combining or modifying the references in the manner proposed by the Examiner.

For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claims 5-6, 12-13, and 19-20.

III. Request for Evidentiary Support

Should a rejection based on any of the above asserted rejections be maintained, Applicant respectfully requests appropriate evidentiary support. Additionally, if the Examiner is relying upon “common knowledge” or “well known ” principles to establish the rejection, Applicant requests that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. Furthermore, to the extent that the Examiner maintains any rejection based on an “Official Notice” or other information within the Examiner’s personal knowledge, Applicant respectfully requests that the Examiner cite a reference as documentary evidence in support of this position or provide an affidavit in accordance with M.P.E.P. § 2144.03 and 37 C.F.R. 1.104(d)(2).

IV. No Waiver

All of Applicant’s arguments and amendments are without prejudice or disclaimer. Additionally, Applicant has merely discussed example distinctions from the references cited by the Examiner. Other distinctions may exist, and Applicant reserves the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicant does not acquiesce to the Examiner’s additional statements. The example distinctions discussed by Applicant are sufficient to overcome the Examiner’s rejections.

Conclusion

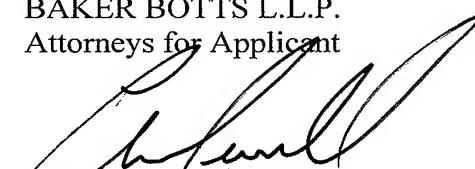
Applicant has made an earnest attempt to place this case in condition for allowance. For at least these reasons, Applicant respectfully requests reconsideration and full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this application in any manner, the Examiner is invited to contact Chad D. Terrell, Attorney for Applicant, at the Examiner's convenience at (214) 953-6813.

Although Applicant believes that no fees are due, the Commissioner is hereby authorized to charge any necessary fees and credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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